

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1768

By: Howard and Jech of the
Senate

and

Wallace of the House

11 COMMITTEE SUBSTITUTE

12 [revenue and taxation - Oklahoma Rural Jobs Act -
13 tax credit - sunset date - tax information -
14 confidentiality - codification - effective date]

17 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3930 of Title 68, unless there
20 is created a duplication in numbering, reads as follows:

21 This act shall be known and may be cited as the "Oklahoma Rural
22 Jobs Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3931 of Title 68, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Affiliate" means an entity that directly, or indirectly
6 through one or more intermediaries, controls, or is controlled by,
7 or is under the common control with another entity. An entity is
8 controlled by another entity if the controlling entity holds,
9 directly or indirectly, the majority of voting or ownership interest
10 in the controlled entity or has control over day-to-day operations
11 of the controlled entity by contract or by law;

12 2. "Applicable percentage" means zero percent (0%) for the
13 first two credit allowance dates, and fifteen percent (15%) for the
14 next four credit allowance dates;

15 3. "Capital investment" means any equity investment in a rural
16 fund by a rural investor which:

- 17 a. is acquired after the effective date of this act at
18 its original issuance solely in exchange for cash,
- 19 b. has one hundred percent (100%) of its cash purchase
20 price used by the rural fund to make qualified
21 investments in eligible businesses located in this
22 state by the third anniversary of the initial credit
23 allowance date, and

24

1 c. is designated by the rural fund as a capital
2 investment under this act and is certified by the
3 Department under the provisions of Section 3 of this
4 act. This shall include any capital investment that
5 does not meet the provisions of paragraph 1 of
6 subsection A of Section 3 of this act, if such
7 investment was a capital investment in the hands of a
8 prior holder;

9 4. "Credit allowance date" means the date on which the
10 Department certifies a rural fund's capital investment and each of
11 the five anniversary dates of such date thereafter;

12 5. "Department" means the Oklahoma Department of Commerce;

13 6. "Eligible business" means a business that, at the time of
14 the initial qualified investment in the business:

15 a. has fewer than two hundred fifty employees, and

16 b. has its principal business operations in the state.

17 Any business which is classified as an eligible business at the
18 time of the initial investment in such business by a rural fund
19 shall remain classified as an eligible business and may receive
20 follow-on investments from any rural fund, and such follow-on
21 investments shall be qualified investments even though such business
22 may not meet the definition of an eligible business at the time of
23 such follow-on investment;

1 7. "Principal business operations" means the location where at
2 least sixty percent (60%) of a business's employees work or where
3 employees who are paid at least sixty percent (60%) of such
4 business's payroll work. A business that has agreed to relocate
5 employees using the proceeds of a qualified investment to establish
6 its principal business operations in a new location shall be deemed
7 to have its principal business operations in such new location if it
8 satisfied the requirements of this paragraph no later than one
9 hundred eighty (180) days after receiving a qualified investment;

10 8. "Purchase price" means the amount paid to the rural fund
11 that issues a capital investment which shall not exceed the amount
12 of capital investment authority certified under the provisions of
13 Section 3 of this act;

14 9. "Qualified investment" means any investment in an eligible
15 business or any loan to an eligible business with a stated maturity
16 date of at least one (1) year after the date of issuance, excluding
17 revolving lines of credit and senior-secured debt unless the chief
18 executive or similar officer of the eligible business certifies that
19 the eligible business sought and was denied similar financing from a
20 depository institution, by a rural fund; provided that, with respect
21 to any one eligible business, the maximum amount of investments made
22 in such business by one or more rural funds, on a collective basis
23 with all of the businesses' affiliates, with the proceeds of the
24 capital investments, shall be the greater of twenty percent (20%) of

1 the rural fund's capital investment authority or Six Million Five
2 Hundred Thousand Dollars (\$6,500,000.00), exclusive of investments
3 made with repaid or redeemed investments or interest or profits
4 realized thereon;

5 10. "Rural area" means any county of this state that has a
6 population of less than seventy-five thousand (75,000) or any city
7 or town of this state that has a population not to exceed seven
8 thousand (7,000) according to the 2020 Federal Decennial Census of
9 the United States;

10 11. "Rural fund" means an entity certified by the Department
11 under the provisions of Section 3 of this act;

12 12. "Rural investor" means an entity that makes a capital
13 investment in a rural fund;

14 13. "Senior-secured debt" means any loan that is secured by a
15 first mortgage on real estate with a loan-to-value ratio of less
16 than eighty percent (80%); and

17 14. "State tax liability" means any liability incurred by any
18 entity subject to the state income tax imposed under Title 68 of the
19 Oklahoma Statutes or an insurance company paying an annual tax on
20 its gross premium receipts including retaliatory tax or under
21 provisions of Title 68 or Title 19 of the Oklahoma Statutes.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 3932 of Title 68, unless there
24 is created a duplication in numbering, reads as follows:

1 A. A rural fund that seeks to have an equity investment
2 certified as a capital investment eligible for credits authorized
3 under the provisions of this act shall apply to the Department. The
4 Department shall begin accepting applications within ninety (90)
5 days of the effective date of this act. The application shall
6 include:

7 1. The amount of capital investment requested;

8 2. A copy of the applicant's or an affiliate of the applicant's
9 licenses as a rural business investment company under 7 U.S.C.,
10 Section 2009cc or as a small business investment company under 15
11 U.S.C., Section 681, and a certificate executed by an executive
12 officer of the applicant attesting that such license remains in
13 effect and has not been revoked;

14 3. Evidence that, as of the date the application is submitted,
15 the applicant or affiliates of the applicant have invested at least
16 One Hundred Million Dollars (\$100,000,000.00) in nonpublic companies
17 located in counties within the United States with a population of
18 less than seventy-five thousand (75,000) according to the 2010
19 Federal Decennial Census of the United States;

20 4. A business plan that includes a revenue-impact assessment
21 projecting state and local tax revenue to be generated by the
22 applicant's proposed qualified investments, prepared by a nationally
23 recognized, third-party, independent economic forecasting firm using
24 a dynamic economic forecasting model that analyzes the applicant's

1 business plan over the ten (10) years following the date the
2 application is submitted to the Department. Such plan shall include
3 an estimate of the number of jobs created and jobs retained in this
4 state as a result of the applicant's qualified investments; and

5 5. A nonrefundable application fee of Five Thousand Dollars
6 (\$5,000.00) payable to the Department.

7 B. Within thirty (30) days after the receipt of a completed
8 application, the Department shall grant or deny the application in
9 full or in part. The Department shall deny the application if:

10 1. The applicant does not satisfy all the criteria provided
11 under subsection A of this section;

12 2. The revenue-impact assessment submitted with the application
13 does not demonstrate that the applicant's business plan will result
14 in a positive fiscal impact on the state over a ten-year period that
15 exceeds the cumulative amount of tax credits that would be issued to
16 the applicant if the application was approved; or

17 3. The Department has already approved the maximum amount of
18 capital investment authority under Section 4 of this act.

19 C. If the Department denies any part of the application, it
20 shall inform the applicant of the grounds for such denial. If the
21 applicant provides any additional information required by the
22 Department or otherwise completes its application within fifteen
23 (15) days of the notice of denial, the application shall be
24 considered complete as of the original date of submission. If the

1 applicant fails to provide the information or fails to complete its
2 application within the fifteen-day period, the application shall
3 remain denied and must be resubmitted with a new submission date and
4 a new application fee.

5 D. Upon approval of an application, the Department shall
6 certify the proposed equity investment as a capital investment
7 eligible for credits under this act, subject to limitations laid out
8 in Section 4 of this act. The Department shall provide written
9 notice of the certification to the applicant which shall include the
10 amount of the applicant's capital investment authority. The
11 Department shall certify capital investments in the order that the
12 application is received by the Department. Applications received on
13 the same day shall be deemed to have been received simultaneously.
14 For applications that are complete and received on the same day, the
15 Department shall certify applications in proportionate percentages
16 based upon the ratio of the amount of capital investment authority
17 requested in all applications.

18 SECTION 4. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 3933 of Title 68, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Department shall certify capital investment authority
22 under the provisions of this act in amounts that would not authorize
23 more than Fifteen Million Dollars (\$15,000,000.00) in state tax
24 credits to be claimed against state tax liability in any calendar

1 year, excluding any credit amounts carried forward as provided under
2 subsection A of Section 5 of this act. Within ninety (90) days of
3 the applicant receiving notice of certification, the rural fund
4 shall issue the capital investment to, and receive cash in the
5 amount of the certified amount from a rural investor. At least ten
6 percent (10%) of the rural investor's capital investment shall be
7 composed of capital raised by the rural investor directly or
8 indirectly from sources including directors, members, employees,
9 officers, and affiliates of the rural investor, other than the
10 amount invested by the allocatee claiming the tax credits in
11 exchange for such allocation of tax credits. The rural fund shall
12 provide the Department with evidence of the receipt of the cash
13 investment within ninety-five (95) days of the applicant receiving
14 notice of certification.

15 B. If the rural fund does not receive the cash investment and
16 issue the capital investment within such time period following
17 receipt of the certificate notice, the certification shall lapse and
18 the rural fund shall not issue the capital investment without
19 reapplying to the Department for certification. Lapsed
20 certifications shall revert to the Department and shall be reissued
21 pro rata to applicants whose capital investment allocations were
22 reduced in accordance with the application process provided under
23 subsection D of Section 3 of this act.

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1 C. A rural fund, before making a qualified investment, may
2 request from the Department a written opinion as to whether the
3 business in which it proposes to invest is an eligible business.
4 The Department, no later than fifteen (15) business days after the
5 date of receipt of such request, shall notify the rural fund of its
6 determination. If the Department fails to notify the rural fund of
7 its determination by the twentieth business day, the business in
8 which the rural fund proposes to invest shall be deemed an eligible
9 business.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3934 of Title 68, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Upon making a capital investment in a rural fund, a rural
14 investor shall have a right to a credit against such entity's state
15 tax liability that may be utilized on each credit allowance date of
16 such capital investment in an amount equal to the applicable
17 percentage for such credit allowance date multiplied by the purchase
18 price paid to the rural fund for the capital investment. The amount
19 of the credit claimed by a rural investor shall not exceed the
20 amount of such entity's state tax liability for the tax year for
21 which the credit is claimed. Any amount of credit that a rural
22 investor is prohibited from claiming in a tax year as a result of
23 this section may be carried forward for use in any of the five (5)
24 subsequent tax years, but shall not be carried back to prior tax

1 years. It is the intent of this act that a rural investor claiming
2 a credit under this act is not required to pay any additional tax
3 that may arise as a result of claiming such credit.

4 B. No credit claimed under the provisions of this act shall be
5 refundable or saleable on the open market. Credits earned by or
6 allocated to a partnership, limited liability company, or S
7 corporation may be allocated to the partners, members, or
8 shareholders of such entity for their direct use in accordance with
9 the provisions of any agreement among such partners, members, or
10 shareholders, and a rural fund shall notify the Department of the
11 names of the entities that are eligible to utilize transfer of a
12 capital investment upon such allocation, change, or transfer. Such
13 allocation shall not be considered a sale for the purpose of this
14 section.

15 C. The Department may recapture credits from a taxpayer that
16 claimed a credit authorized under this section if:

17 1. The rural fund does not invest sixty percent (60%) of its
18 capital investment authority in qualified investments in this state
19 within two (2) years of the credit allowance date, and one hundred
20 percent (100%) of its capital investment authority in qualified
21 investments in this state within three (3) years of the credit
22 allowance date; provided, that at least seventy percent (70%) of
23 these initial qualified investments must be made in eligible
24 businesses located in rural areas;

1 2. The rural fund fails to maintain qualified investments equal
2 to ninety percent (90%) of its capital investment authority from the
3 third anniversary until the sixth anniversary of the credit
4 allowance date, with seventy percent (70%) of such investments
5 maintained in eligible businesses located in rural areas. For each
6 year the rural fund fails to maintain such investments, the
7 Department may recapture an amount of such year's allowed credits
8 equal to the percentage difference between ninety percent (90%) of a
9 rural fund's capital investment authority and the actual amount of
10 qualified investments maintained for such year. For the purposes of
11 this subsection, a qualified investment is considered even if the
12 qualified investment was sold or repaid so long as the rural fund
13 reinvests an amount equal to the capital returned or recovered or
14 repaid by the rural fund from the original investment, exclusive of
15 any profits realized, in other qualified investments in this state
16 within twelve (12) months of receipt of such capital. Amounts
17 received periodically by a rural fund shall be treated as
18 continually invested in qualified investments if the amounts are
19 reinvested in one or more qualified investments by the end of the
20 following calendar year. A rural fund shall not be required to
21 reinvest capital returned from qualified investments after the fifth
22 anniversary of the credit allowance date, and such qualified
23 investments shall be considered held continuously by the rural fund
24 through the sixth anniversary of the credit allowance date;

1 3. Prior to the earlier of exiting the program in accordance
2 with this act or thirty (30) days after the sixth anniversary of the
3 credit allowance date, the rural fund makes a distribution or
4 payment that results in the rural fund having less than one hundred
5 percent (100%) of its capital investment authority invested in
6 qualified investments in the state or held in cash or other
7 marketable securities; or

8 4. The rural fund violates the provisions of Section 6 of this
9 act, in which case the Department may recapture an amount equal to
10 the amount of the rural fund's capital investment authority found to
11 be in violation of such provisions.

12 For the purposes of meeting and maintaining the objectives
13 established for investment in paragraphs 1 and 2 of this subsection,
14 a rural fund's qualified investments shall be multiplied by a factor
15 of one and one-quarter (1 1/4) in counties with less than thirty
16 thousand (30,000) in population and more than thirteen thousand
17 (13,000) in population and shall be multiplied by a factor of one
18 and one-half (1 1/2) in counties with a population of thirteen
19 thousand (13,000) or less.

20 D. Recaptured credits and related capital investment authority
21 shall revert to the Department and shall be reissued pro rata to
22 applicants whose capital investment allocations were reduced in
23 accordance with the application process provided under subsection D
24 of Section 3 of this act.

1 E. No recapture shall occur until the rural fund has been given
2 notice of noncompliance and afforded six (6) months from the date of
3 such notice to cure the noncompliance.

4 SECTION 6. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3935 of Title 68, unless there
6 is created a duplication in numbering, reads as follows:

7 No eligible business that receives a qualified investment under
8 the provisions of this act, or any affiliates or such eligible
9 business, shall directly or indirectly:

10 1. Own or have the right to acquire an ownership interest in a
11 rural fund or member or affiliate of a rural fund including, but not
12 limited to, a holder of a capital investment issued by a rural fund;
13 or

14 2. Loan to or invest in a rural fund or any member or affiliate
15 of a rural fund including, but not limited to, a holder of capital
16 investment issued by a rural fund, where the proceeds of such loan
17 or investment are directly or indirectly used to fund or refinance
18 the purchase of capital investments under this act.

19 SECTION 7. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3936 of Title 68, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Rural funds shall submit a report to the Department within
23 the first fifteen (15) business days after the second and third
24 anniversary of the initial credit allowance date. The report

1 following the second anniversary shall provide documentation as to
2 the investment of sixty percent (60%) of the purchase price of such
3 capital investment in qualified investments. The report following
4 the third anniversary shall provide documentation as to the
5 investment of one hundred percent (100%) of the purchase price of
6 such capital investment in qualified investments. Unless previously
7 reported pursuant to this subsection, such reports shall also
8 include:

- 9 1. The name and location of each eligible business receiving a
10 qualified investment;
- 11 2. Bank statements of such rural fund evidencing each qualified
12 investment;
- 13 3. A copy of the written opinion of the Department, as provided
14 in subsection C of Section 4 of this act, or evidence that such
15 business was an eligible business at the time of such qualified
16 investment, as applicable;
- 17 4. The number of jobs created and jobs retained as a result of
18 each qualified investment;
- 19 5. The average salary of positions described in paragraph 4 of
20 this subsection; and
- 21 6. Such other information as required by the Department.

22 B. For all subsequent years, rural funds shall submit an annual
23 report to the Department within ninety (90) days of the beginning of
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1 the calendar year during the compliance period. The report shall
2 include, but is not limited to, the following:

3 1. The number of jobs created and jobs retained as a result of
4 qualified investments;

5 2. The average annual salary of positions described in
6 paragraph 1 of this subsection; and

7 3. Such other information as required by the Department.

8 C. On or after the sixth anniversary of the credit allowance
9 date, a rural fund may apply to the Department to exit the program
10 and no longer be subject to the regulation hereunder. The
11 Department shall respond to the exit application within fifteen (15)
12 days of receipt. In evaluating the exit application, the fact that
13 no credits have been recaptured and that the rural fund has not
14 received a notice of recapture that has not been cured pursuant to
15 subsection E of Section 5 of this act shall be sufficient evidence
16 to prove that the rural fund is eligible for exit. The Department
17 shall not unreasonably deny an exit application submitted under this
18 section. If an exit application is denied, the notice shall include
19 the reasons for the determination.

20 SECTION 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3937 of Title 68, unless there
22 is created a duplication in numbering, reads as follows:

23 The Department shall accept no new applications for tax credits
24 authorized under this act after December 1, 2032.

1 SECTION 9. AMENDATORY 68 O.S. 2021, Section 205, is
2 amended to read as follows:

3 Section 205. A. The records and files of the Oklahoma Tax
4 Commission concerning the administration of the Uniform Tax
5 Procedure Code or of any state tax law shall be considered
6 confidential and privileged, except as otherwise provided for by
7 law, and neither the Tax Commission nor any employee engaged in the
8 administration of the Tax Commission or charged with the custody of
9 any such records or files nor any person who may have secured
10 information from the Tax Commission shall disclose any information
11 obtained from the records or files or from any examination or
12 inspection of the premises or property of any person.

13 B. Except as provided in paragraph 26 of subsection C of this
14 section, neither the Tax Commission nor any employee engaged in the
15 administration of the Tax Commission or charged with the custody of
16 any such records or files shall be required by any court of this
17 state to produce any of the records or files for the inspection of
18 any person or for use in any action or proceeding, except when the
19 records or files or the facts shown thereby are directly involved in
20 an action or proceeding pursuant to the provisions of the Uniform
21 Tax Procedure Code or of the state tax law, or when the
22 determination of the action or proceeding will affect the validity
23 or the amount of the claim of the state pursuant to any state tax
24 law, or when the information contained in the records or files

1 constitutes evidence of violation of the provisions of the Uniform
2 Tax Procedure Code or of any state tax law.

3 C. The provisions of this section shall not prevent the Tax
4 Commission, or with respect to the Oklahoma Department of Commerce
5 in administration of the Oklahoma Rural Jobs Act as provided by
6 paragraph 22 of this subsection, from disclosing the following
7 information and no liability whatsoever, civil or criminal, shall
8 attach to any member of the Tax Commission, or the Oklahoma
9 Department of Commerce as applicable, or any employee thereof for
10 any error or omission in the disclosure of such information:

11 1. The delivery to a taxpayer or a duly authorized
12 representative of the taxpayer of a copy of any report or any other
13 paper filed by the taxpayer pursuant to the provisions of the
14 Uniform Tax Procedure Code or of any state tax law;

15 2. The exchange of information that is not protected by the
16 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,
17 pursuant to reciprocal agreements entered into by the Tax Commission
18 and other state agencies or agencies of the federal government;

19 3. The publication of statistics so classified as to prevent
20 the identification of a particular report and the items thereof;

21 4. The examination of records and files by the State Auditor
22 and Inspector or the duly authorized agents of the State Auditor and
23 Inspector;

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1 5. The disclosing of information or evidence to the Oklahoma
2 State Bureau of Investigation, Attorney General, Oklahoma State
3 Bureau of Narcotics and Dangerous Drugs Control, any district
4 attorney or agent of any federal law enforcement agency when the
5 information or evidence is to be used by such officials to
6 investigate or prosecute violations of the criminal provisions of
7 the Uniform Tax Procedure Code or of any state tax law or of any
8 federal crime committed against this state. Any information
9 disclosed to the Oklahoma State Bureau of Investigation, Attorney
10 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
11 Control, any district attorney or agent of any federal law
12 enforcement agency shall be kept confidential by such person and not
13 be disclosed except when presented to a court in a prosecution for
14 violation of the tax laws of this state or except as specifically
15 authorized by law, and a violation by the Oklahoma State Bureau of
16 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
17 and Dangerous Drugs Control, district attorney or agent of any
18 federal law enforcement agency by otherwise releasing the
19 information shall be a felony;

20 6. The use by any division of the Tax Commission of any
21 information or evidence in the possession of or contained in any
22 report or return filed with any other division of the Tax
23 Commission;

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1 7. The furnishing, at the discretion of the Tax Commission, of
2 any information disclosed by its records or files to any official
3 person or body of this state, any other state, the United States or
4 foreign country who is concerned with the administration or
5 assessment of any similar tax in this state, any other state or the
6 United States. The provisions of this paragraph shall include the
7 furnishing of information by the Tax Commission to a county assessor
8 to determine the amount of gross household income pursuant to the
9 provisions of Section 8C of Article X of the Oklahoma Constitution
10 or Section 2890 of this title. The Tax Commission shall promulgate
11 rules to give guidance to the county assessors regarding the type of
12 information which may be used by the county assessors in determining
13 the amount of gross household income pursuant to Section 8C of
14 Article X of the Oklahoma Constitution or Section 2890 of this
15 title. The provisions of this paragraph shall also include the
16 furnishing of information to the State Treasurer for the purpose of
17 administration of the Uniform Unclaimed Property Act;

18 8. The furnishing of information to other state agencies for
19 the limited purpose of aiding in the collection of debts owed by
20 individuals to such requesting agencies;

21 9. The furnishing of information requested by any member of the
22 general public and stated in the sworn lists or schedules of taxable
23 property of public service corporations organized, existing, or
24 doing business in this state which are submitted to and certified by

1 the State Board of Equalization pursuant to the provisions of
2 Section 2858 of this title and Section 21 of Article X of the
3 Oklahoma Constitution, provided such information would be a public
4 record if filed pursuant to Sections 2838 and 2839 of this title on
5 behalf of a corporation other than a public service corporation;

6 10. The furnishing of information requested by any member of
7 the general public and stated in the findings of the Tax Commission
8 as to the adjustment and equalization of the valuation of real and
9 personal property of the counties of the state, which are submitted
10 to and certified by the State Board of Equalization pursuant to the
11 provisions of Section 2865 of this title and Section 21 of Article X
12 of the Oklahoma Constitution;

13 11. The furnishing of information as to the issuance or
14 revocation of any tax permit, license or exemption by the Tax
15 Commission as provided for by law. Such information shall be
16 limited to the name of the person issued the permit, license or
17 exemption, the name of the business entity authorized to engage in
18 business pursuant to the permit, license or exemption, the address
19 of the business entity and the grounds for revocation;

20 12. The posting of notice of revocation of any tax permit or
21 license upon the premises of the place of business of any business
22 entity which has had any tax permit or license revoked by the Tax
23 Commission as provided for by law. Such notice shall be limited to
24 the name of the person issued the permit or license, the name of the

1 business entity authorized to engage in business pursuant to the
2 permit or license, the address of the business entity and the
3 grounds for revocation;

4 13. The furnishing of information upon written request by any
5 member of the general public as to the outstanding and unpaid amount
6 due and owing by any taxpayer of this state for any delinquent tax,
7 together with penalty and interest, for which a tax warrant or a
8 certificate of indebtedness has been filed pursuant to law;

9 14. After the filing of a tax warrant pursuant to law, the
10 furnishing of information upon written request by any member of the
11 general public as to any agreement entered into by the Tax
12 Commission concerning a compromise of tax liability for an amount
13 less than the amount of tax liability stated on such warrant;

14 15. The disclosure of information necessary to complete the
15 performance of any contract authorized by this title to any person
16 with whom the Tax Commission has contracted;

17 16. The disclosure of information to any person for a purpose
18 as authorized by the taxpayer pursuant to a waiver of
19 confidentiality. The waiver shall be in writing and shall be made
20 upon such form as the Tax Commission may prescribe;

21 17. The disclosure of information required in order to comply
22 with the provisions of Section 2369 of this title;

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1 18. The disclosure to an employer, as defined in Sections
2 2385.1 and 2385.3 of this title, of information required in order to
3 collect the tax imposed by Section 2385.2 of this title;

4 19. The disclosure to a plaintiff of a corporation's last-known
5 address shown on the records of the Franchise Tax Division of the
6 Tax Commission in order for such plaintiff to comply with the
7 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

8 20. The disclosure of information directly involved in the
9 resolution of the protest by a taxpayer to an assessment of tax or
10 additional tax or the resolution of a claim for refund filed by a
11 taxpayer, including the disclosure of the pendency of an
12 administrative proceeding involving such protest or claim, to a
13 person called by the Tax Commission as an expert witness or as a
14 witness whose area of knowledge or expertise specifically addresses
15 the issue addressed in the protest or claim for refund. Such
16 disclosure to a witness shall be limited to information pertaining
17 to the specific knowledge of that witness as to the transaction or
18 relationship between taxpayer and witness;

19 21. The disclosure of information necessary to implement an
20 agreement authorized by Section 2702 of this title when such
21 information is directly involved in the resolution of issues arising
22 out of the enforcement of a municipal sales tax ordinance. Such
23 disclosure shall be to the governing body or to the municipal
24 attorney, if so designated by the governing body;

1 22. The furnishing of information regarding incentive payments
2 made pursuant to the provisions of Sections 3601 through 3609 of
3 this title or incentive payments made pursuant to the provisions of
4 Sections 3501 through 3508 of this title or tax credits authorized
5 pursuant to the provisions of the Oklahoma Rural Jobs Act as
6 provided by Sections 1 through 8 of this act;

7 23. The furnishing to a prospective purchaser of any business,
8 or his or her authorized representative, of information relating to
9 any liabilities, delinquencies, assessments or warrants of the
10 prospective seller of the business which have not been filed of
11 record, established or become final and which relate solely to the
12 seller's business. Any disclosure under this paragraph shall only
13 be allowed upon the presentment by the prospective buyer, or the
14 buyer's authorized representative, of the purchase contract and a
15 written authorization between the parties;

16 24. The furnishing of information as to the amount of state
17 revenue affected by the issuance or granting of any tax permit,
18 license, exemption, deduction, credit or other tax preference by the
19 Tax Commission as provided for by law. Such information shall be
20 limited to the type of permit, license, exemption, deduction, credit
21 or other tax preference issued or granted, the date and duration of
22 such permit, license, exemption, deduction, credit or other tax
23 preference and the amount of such revenue. The provisions of this
24 paragraph shall not authorize the disclosure of the name of the

1 person issued such permit, license, exemption, deduction, credit or
2 other tax preference, or the name of the business entity authorized
3 to engage in business pursuant to the permit, license, exemption,
4 deduction, credit or other tax preference;

5 25. The examination of records and files of a person or entity
6 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
7 Control pursuant to a court order by a magistrate in whose
8 territorial jurisdiction the person or entity resides, or where the
9 Tax Commission records and files are physically located. Such an
10 order may only be issued upon a sworn application by an agent of the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
12 certifying that the person or entity whose records and files are to
13 be examined is the target of an ongoing investigation of a felony
14 violation of the Uniform Controlled Dangerous Substances Act and
15 that information resulting from such an examination would likely be
16 relevant to that investigation. Any records or information obtained
17 pursuant to such an order may only be used by the Oklahoma State
18 Bureau of Narcotics and Dangerous Drugs Control in the investigation
19 and prosecution of a felony violation of the Uniform Controlled
20 Dangerous Substances Act. Any such order issued pursuant to this
21 paragraph, along with the underlying application, shall be sealed
22 and not disclosed to the person or entity whose records were
23 examined, for a period of ninety (90) days. The issuing magistrate
24 may grant extensions of such period upon a showing of good cause in

1 furtherance of the investigation. Upon the expiration of ninety
2 (90) days and any extensions granted by the magistrate, a copy of
3 the application and order shall be served upon the person or entity
4 whose records were examined, along with a copy of the records or
5 information actually provided by the Tax Commission;

6 26. The disclosure of information, as prescribed by this
7 paragraph, which is related to the proposed or actual usage of tax
8 credits pursuant to Section 2357.7 of this title, the Small Business
9 Capital Formation Incentive Act or the Rural Venture Capital
10 Formation Incentive Act. Unless the context clearly requires
11 otherwise, the terms used in this paragraph shall have the same
12 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
13 title. The disclosure of information authorized by this paragraph
14 shall include:

- 15 a. the legal name of any qualified venture capital
16 company, qualified small business capital company or
17 qualified rural small business capital company,
- 18 b. the identity or legal name of any person or entity
19 that is a shareholder or partner of a qualified
20 venture capital company, qualified small business
21 capital company or qualified rural small business
22 capital company,
- 23 c. the identity or legal name of any Oklahoma business
24 venture, Oklahoma small business venture or Oklahoma

1 rural small business venture in which a qualified
2 investment has been made by a capital company, or
3 d. the amount of funds invested in a qualified venture
4 capital company, the amount of qualified investments
5 in a qualified small business capital company or
6 qualified rural small business capital company and the
7 amount of investments made by a qualified venture
8 capital company, qualified small business capital
9 company, or qualified rural small business capital
10 company;

11 27. The disclosure of specific information as required by
12 Section 46 of Title 62 of the Oklahoma Statutes;

13 28. The disclosure of specific information as required by
14 Section 205.5 of this title;

15 29. The disclosure of specific information as required by
16 Section 205.6 of this title;

17 30. The disclosure of information to the State Treasurer
18 necessary to implement Section 2368.27 of this title;

19 31. The disclosure of specific information to the Oklahoma
20 Health Care Authority for purposes of determining eligibility for
21 current or potential recipients of assistance from the Oklahoma
22 Medicaid Program; or

23 32. The disclosure of information to the Oklahoma Department of
24 Veterans Affairs including but not limited to the name and basis for

1 eligibility of each individual who qualifies for the sales tax
2 exemption authorized in paragraph 34 of Section 1357 of this title.

3 D. The Tax Commission shall cause to be prepared and made
4 available for public inspection in the office of the Tax Commission
5 in such manner as it may determine an annual list containing the
6 name and post office address of each person, whether individual,
7 corporate or otherwise, making and filing an income tax return with
8 the Tax Commission.

9 It is specifically provided that no liability whatsoever, civil
10 or criminal, shall attach to any member of the Tax Commission or any
11 employee thereof for any error or omission of any name or address in
12 the preparation and publication of the list.

13 E. The Tax Commission shall prepare or cause to be prepared a
14 report on all provisions of state tax law that reduce state revenue
15 through exclusions, deductions, credits, exemptions, deferrals or
16 other preferential tax treatments. The report shall be prepared not
17 later than October 1 of each even-numbered year and shall be
18 submitted to the Governor, the President Pro Tempore of the Senate
19 and the Speaker of the House of Representatives. The Tax Commission
20 may prepare and submit supplements to the report at other times of
21 the year if additional or updated information relevant to the report
22 becomes available. The report shall include, for the previous
23 fiscal year, the Tax Commission's best estimate of the amount of
24 state revenue that would have been collected but for the existence

1 of each such exclusion, deduction, credit, exemption, deferral or
2 other preferential tax treatment allowed by law. The Tax Commission
3 may request the assistance of other state agencies as may be needed
4 to prepare the report. The Tax Commission is authorized to require
5 any recipient of a tax incentive or tax expenditure to report to the
6 Tax Commission such information as requested so that the Tax
7 Commission may fulfill its obligations as required by this
8 subsection. The Tax Commission may require this information to be
9 submitted in an electronic format. The Tax Commission may disallow
10 any claim of a person for a tax incentive due to its failure to file
11 a report as required under the authority of this subsection.

12 F. It is further provided that the provisions of this section
13 shall be strictly interpreted and shall not be construed as
14 permitting the disclosure of any other information contained in the
15 records and files of the Tax Commission relating to income tax or to
16 any other taxes.

17 G. Unless otherwise provided for in this section, any violation
18 of the provisions of this section shall constitute a misdemeanor and
19 shall be punishable by the imposition of a fine not exceeding One
20 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail
21 for a term not exceeding one (1) year, or by both such fine and
22 imprisonment, and the offender shall be removed or dismissed from
23 office.

24

1 H. Offenses described in Section 2376 of this title shall be
2 reported to the appropriate district attorney of this state by the
3 Tax Commission as soon as the offenses are discovered by the Tax
4 Commission or its agents or employees. The Tax Commission shall
5 make available to the appropriate district attorney or to the
6 authorized agent of the district attorney its records and files
7 pertinent to prosecutions, and such records and files shall be fully
8 admissible as evidence for the purpose of such prosecutions.

9 SECTION 10. This act shall become effective November 1, 2022.

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11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
12 04/21/2022 - DO PASS, As Amended.

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